Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	
Schools and Libraries	)	CC Docket No. 02-6
Universal Service Support Mechanism	)	
	)	
Request for Review and/or Waiver by	)	
the Lawrence Unified School District #497	)	Application Nos. 775595,
of Funding Decisions by the	)	828451, and 922269 *et al.*
Universal Service Administrative Company	)	
	)	

REQUEST FOR REVIEW AND/OR WAIVER BY THE LAWRENCE UNIFIED SCHOOL DISTRICT #497 OF FUNDING DECISIONS BY THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY

Pursuant to sections 54.719 and 54.722 of the Commission's rules,[1] the Lawrence Unified School District #497 (the District) hereby respectfully requests a review of the Universal Service Administrative Company (USAC) decisions to deny Schools and Libraries Universal Service (E-rate) funding for Funding Years 2014 and 2015 and to seek recovery of funding for Funding Years 2011, 2012, and 2013.[2]

[1] 47 C.F.R. § 54.719(b), (c); 47 C.F.R. § 54.722(a).

[2] *See* Exhibit A for the relevant applications. These applications involve approximately $840,000 in funding.

EXECUTIVE SUMMARY

Contrary to USAC's finding, the District has not violated the program's gift rules. First, while USAC appears to believe any free service provided to an applicant by a service provider is a prohibited "gift," Commission rules allow service providers to provide complimentary goods and services to applicants as long as the donations are not made with the intent of influencing the competitive bidding process. The facts here show that the residential services in question were not intended to and could not have influenced the competitive bidding process. The services were provided as part of a package that the District's service provider, Knology of Kansas, Inc. (Knology), offered to the District and other similarly situated customers. These service were provided as part of Knology's regular commercial offerings made over the course of many years. The services had no effect on the District's selection process.

Second, contrary to USAC's allegation, the District conducted a fair and open competitive bidding process. The District followed all of the applicable E-rate rules. Knology was the only service provider that bid on the services in 2011, and was the lowest-cost bidder in funding year 2013. In fact, when the District sought an additional high-bandwidth connection in funding year 2014, it awarded the contract to a different service provider. The residential services included in the Knology contract did not have any effect on the competitive bidding process.

Third, the Commission's rules at the time explicitly allowed services not eligible for E-rate discounts to be bundled with services eligible for E-rate, as long as the package was "available to some other class of subscribers or segment of the public."[3] That is the case here: Knology provided a handful of residential Internet access accounts in connection with the District's purchase of a significant amount of Internet access, as it also did for other of its business customers.

Finally, if the Commission does not believe that Knology's inclusion of the complementary accounts did not fall within the bundling exception, the District, at most, simply did not properly remove the costs for the ineligible services from its application. If the Commission finds the District should have cost-allocated the approximately $17,000 worth of services, the remedy is the recovery of the dollars associated with the ineligible services, not the half a million dollars disbursed. The Commission should also allow the District to receive funding for funding years 2014, with the services cost-allocated as appropriate, and for funding year 2015, in which no complimentary services were received.

As such, the Commission should direct USAC to cease recovery of the more than $500,000 for funding years 2011 through 2013 and reinstate the funding commitments for 2011 through 2014. In addition, the Commission should direct USAC to reverse its decision denying the District's funding year 2015 application. In the alternative, the Commission should waive any rules it believes were violated as such a waiver would serve the public interest.

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[3] See Schools and Libraries Universal Service Support Mechanism, A National Broadband Plan for Our Future, CC Docket No. 02-6, GN Docket No. 09-51, Order, 25 FCC Rcd 17324, 17328, ¶ 11 (Wireline Comp. Bur. 2010) (*2010 Clarification Order*).

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I. BACKGROUND

Lawrence Unified School District #497 is a school district located in Lawrence, Kansas, serving students from grades K-12. The District applied for Schools and Libraries Universal Service Support (commonly known as E-rate) funding through USAC for funding years 2011 through 2015.

In 2011, the District sought bids for Internet access and telecommunications for the District and its schools. The only response was from Knology, which at the time of submission was a cable, Internet and wireless provided located in Lawrence, Kansas.[4] There were no other bids for services received in response to the District's request.[5]

After acceptance of the bid, Knology and the District signed a five-year contract for the services.[6] The contract, consistent with other Knology business contracts, contained a provision that the District could receive up to 15 complimentary residential accounts as part of the monthly recurring fee for the Internet access services.[7]

In funding year 2013, the District required an additional 200 Mbps connection. It received two bids: from Knology and from KanRen. Knology's bid was the lower of the two by $10,000.[8] The District selected Knology to provide the services. The District's consultant at the time, Edward Holt, reviewed the bids in each of these two procurements and recommended a

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[4] Knology was purchased by, and is now doing business as, WOW!.

[5] *See* Exhibit B, District Bid Evaluation; *see also* Affidavit of Edward Holt. *See* Exhibit C, the Knology Business Communications Services Agreement, dated March 15, 2011.

[6] *Id.*

[7] *Id.*

[8] *See* Exhibit D, KanRen and Knology bids for funding year 2013.

bidder to the District.[9] In each case, he used price as the primary factor and recommended the least expensive service provider.[10]

In funding year 2014, the District required an additional 420 Mbps connection. The District received four bids. KanRen was the lowest bidder, with a bid of $10 per Mbps and Knology was the second lowest bid with a bid of $12 per Mbps.[11] The District selected KanRen as the winning bidder.[12]

Prior to any investigation by USAC, the District itself voluntarily discontinued the provision of the residential Internet accounts by changing the terms of its contract with Knology.[13] The total value of the residential services provided during the funding years at issue, as identified by Knology, is approximately $17,000.[14]

In August 2016, the District was notified that USAC believed that the funding requests for funding years 2011 through 2014 were committed in error because the District had allegedly violated section 54.503 of the Commission's rules.[15] USAC also denied the District's request for funding years 2014 and 2015.[16] For funding years 2011 through 2013, USAC is now seeking

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[9] *See* Affidavit of Edward Holt.

[10] *Id.*

[11] KanRen's bid was about $3,000 lower than Knology's.

[12] *See* Exhibit E, FY2014 Bidding Evaluation Matrix. The District used price as the primary factor for this process, allocating 65 points for price. This line was rebid in funding year 2015 and KanRen again was the winning bidder.

[13] *See* Affidavit of Jerri Kemble. In 2014, the District had hired a former state E-rate coordinator to serve as its director of technology. The former technology director identified the complimentary services as a potential issue. Wanting to err on the conservative side, the District's superintendent requested that she immediately revise the contract with Knology and discontinue the use of any services that she thought might violate the E-rate rules and requirements. She did not complete this task prior to leaving employment with the District, although the District believed it had been accomplished.

[14] Knology has provided a list to the District of the accounts used during the funding years at issue, as the District would have no way of identifying or confirming which accounts were used. The District's understanding is that the value of the residential accounts was approximately $17,400.

[15] *See* Exhibit F, Commitment Adjustment Letters for Funding Years 2011-2014, dated August 15, 2016.

[16] *See* Exhibit F (Funding Year 2014); Exhibit G, Funding Commitment Decision Letter dated August 2, 2016.

recovery of more than $500,000.[17] USAC has denied approximately $340,000 for funding years 2014 and 2015.[18]

The District timely appealed the decisions to deny and/or revoke funding commitments for the Funding Requests to USAC by letter dated September 30, 2016. USAC denied the District's appeals on the basis that the District did not conduct a fair and open competitive bidding process "free from conflicts of interest," referencing the residential services the District received in its package of Internet services.[19] USAC also separately noted that it believed the District accepted "gifts" in violation of the gift rule.[20] The District now timely files this appeal with the Commission.[21]

II. USAC ERRED IN FINDING VIOLATIONS OF THE E-RATE COMPETITIVE BIDDING AND GIFT RULES

The District strenuously objects to USAC's conclusions that the District did not conduct a fair and open competitive bidding process and that the District and Knology violated the program's gift rules.[22] To the contrary, the District's competitive bidding process was conducted in accordance with Commission rules and, when it received multiple bids, the District selected the most cost-effective – and the lowest-priced – bidder. Furthermore, the explicit purpose of the Commission's rule is to prohibit gifts that may influence procurement activities or decisions. The free services that Knology provided to the District do not fall into this category: they were

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[17] *See* Exhibit H, Demand Payment Letters dated October 25, 2016.

[18] USAC committed funding for the District's funding year 2014 requests but no funds had been disbursed at the time of the commitment adjustment.

[19] *See* Exhibit I, Administrator's Decisions on Appeal, dated October 18, 19, 25 and 26, 2016.

[20] USAC did not specify what the gifts were, but the District assumes it is referencing the residential services.

[21] The District and Knology jointly filed an appeal for several of the funding requests cited herein, arguing that the demand payment letters were issued prematurely and seeking the full 60 days to file the instant appeal. *See* Request for Review by Knology of Kansas, Inc. and Lawrence Unified School District #497 of Funding Decisions by the Universal Service Administrative Company, WC Docket No. 02-6 (filed Nov. 22, 2016).

[22] *See* Exhibit I.

not intended to, and did not, influence any procurement decisions. Accordingly, the free services that Knology provided were allowed under the Commission's rules. The Commission should therefore reverse USAC's decision.

Furthermore, for all of the years covered by this appeal, the Commission explicitly allowed applicants to receive ineligible services bundled with E-rate eligible services from their service providers, as long as the bundle of services was offered to a segment or class of customers. As explained in Knology's appeal to USAC, Knology routinely offered additional accounts to its bulk volume customers, like it did to the District, so the bundled services should be allowed here.[23] If the Commission concludes, however, that the Applicant's inclusion of the costs for the residential services was not allowed under Commission rules, it should find that the District simply failed to properly cost-allocate the cost of the residential services from the funding request, and instruct USAC to seek recovery of funds accordingly.

A. The District Conducted a Fair and Open Competitive Bidding Process, and Neither the District Nor Its Service Provider Violated the Program's Gift Rules

The District conducted a competitive bidding process that was consistent with Commission rules. The fact that a few residential accounts were included in the contract for Internet access services does not demonstrate a violation of the Commission's gift rules, as the ineligible services did not affect the competitive bidding process. The service provider was either the only bidder or the least expensive bidder in every year that it won the District's business.

[23] *See* Exhibit J, Knology's Appeal to USAC, Attachment B.

i. The District Conducted a Fair and Open Competitive Bidding Process

Commission rules require applicants to seek competitive bids for all services and equipment eligible for E-rate discounts.[24] Applicants are generally required to post an FCC Form 470/Request for Proposal (RFP) to seek competitive bids.[25] The posting of the FCC Form 470 – and, if applicable, the RFP – triggers the formal process of permitting any and all providers to submit bids per the description of those services detailed in the RFP. The competitive bidding process must be "fair and open."[26] Specifically, the Commission's competitive bidding rules are designed to ensure that no bid presented can be accepted if the provider, or potential provider, was given any unfair advantage in the bidding process.[27] In 2010, the Commission codified some specific examples providing generally that all bidders must be treated the same and no bidder can have advance knowledge of the project information.[28]

In this matter, the District followed each and every rule to ensure that the competitive bid process was followed. There is no evidence that the District provided any advance or inside

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[24] *See* 47 C.F.R. § 54.503(a)-(b) (2014); *see also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 97-157, ¶ 480 (1997) (*First Universal Service Order*) (finding that "fiscal responsibility compels us to require that eligible schools and libraries seek competitive bids for all services eligible for [E-rate] discounts.").

[25] 47 C.F.R. § 54.503(c).

[26] 47 C.F.R. § 54.503. As part of the competitive bidding process, applicants also must "carefully consider all bids submitted" and thereafter must select "the most cost-effective service offering" using the price of eligible goods and services as the primary factor. 47 C.F.R. § 54.511(a) (2014); *see also* 47 C.F.R. §§ 54.503(c)(2)(ii)(B), 54.504(a)(1)(ix) (2015) (requiring applicants to certify on FCC Forms 470 and 471 respectively that the most cost-effective bid will be or was selected); *Request for Review of the Decision of the Universal Service Administrator by Ysleta Independent School District El Paso, Texas, et al.*, Order, FCC 03-313, 18 FCC Rcd 26407, n.138 (2003) (*Ysleta Order*).

[27] *See* Schools and Libraries Universal Service Support Mechanism, *Third Report and Order and Second Further Notice of Proposed Rulemaking*, CC Docket No. 02-6, 18 FCC Rcd 26912, 26939 (2003) (stating that a fair and open competitive bidding process is critical to preventing waste, fraud, and abuse of program resources; *see also Request for Review by Mastermind Internet Services, Inc.*, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket No. 96-45, Order, 16 FCC Rcd 4028, 4033-34 (2000).

[28] *Id.*

information or that the District had a relationship that unfairly influenced the competitive bidding process. Instead, the District properly posted an FCC Form 470, identified the services it desired, received bids from interested service provider(s), used price as the primary factor to evaluate the bids, waited 28 days, and selected the winning bidder. The District's consultant managed the process for the District and selected each winning bidder based on price. Specifically, in funding year 2011, at the close of the competitive bidding period, the District was in receipt of the single bid submitted by Knology.[29] Similarly, in the subsequent years at issue, the District made requests for additional services through Form 470. In Funding Year 2013, the District received two bids, but the District followed the requirements of the Program Rules in determining cost was the primary factor, and selected the lowest bid – the one submitted by Knology. Notably, in funding years 2014 and 2015, when Knology was not the lowest bidder, the District selected KanRen, which was the lowest bidder, to provide the requested services. If the complimentary accounts were really intended to influence the competitive bidding process, the District would have selected Knology each time.

ii. The Residential Accounts Were Not Prohibited Gifts

Neither the District nor Knology violated the Commission's gift rules. In 2010, the Commission adopted gift rules for the E-rate program modeled on the gift rules applicable to federal agencies.[30] These rules prohibited gifts from service providers to applicants that might have "undue or improper influence on a procurement decision."[31] In the *2010 Clarification*

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[29] The Commission has repeatedly found applicants that receive only one bid do not have to solicit other bids. *Schools and Libraries Universal Service Support Mechanism,* CC Docket No. 02-6, Fifth Report and Order, 19 FCC Rcd 15808, ¶ 21 n. 41 (*Fifth Report and Order*).

[30] *Schools and Libraries Universal Service Support Mechanism; A National Broadband Plan for Our Future,* CC Docket No. 02-6, GN Docket No. 09-51, Sixth Report and Order, 25 FCC Rcd 18762, 18800-02, ¶¶ 86-90 (2010) (*Sixth Report and Order*).

[31] *Id.* ¶ 89.

Order, the Wireline Competition Bureau addressed questions it had received regarding the applicability of the newly adopted gift rules to contributions from service providers to applicants.[32] The Bureau clarified that the gift rule was "not intended to discourage charitable donations to E-rate eligible entities as long as those donations [were] not directly or indirectly related to E-rate procurement activities or decisions and provided the donation [was] not given with the intention of circumventing the competitive bidding or other E-rate program rules."[33] The Bureau explained that even if a donation furthered educational programs and purposes, it would violate the E-rate program gift rule if it were provided for the specific purpose of influencing the competitive bidding process.[34] As an example, the Bureau stated that the rules would prohibit gifts of equipment that would increase demand for a donor's services, because such gifts would likely be intended to influence the applicant's future purchasing patterns.[35]

USAC erred in its finding that Knology's complimentary residential Internet access violated the program's gift rules. In its commitment adjustment letters (COMAD), USAC acknowledged neither the Commission's stated purpose for adopting the rules (to prevent "undue or improper influence on a procurement decision") nor the Bureau clarifications described above. Instead, USAC wrongly pronounced that the gift rules "prohibit applicants from soliciting or accepting *any* gift or items of value from a service provider participating in or seeking to participate in the E-rate program."[36] But as the Commission and the Bureau have made

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[32] 2010 Clarification Order, 25 FCC Rcd 17324.

[33] *Id.* at 17328, ¶ 10.

[34] *Id.* at 17328, ¶ 11.

[35] *Id.*

[36] *See* Exhibit F (emphasis added).

abundantly clear, the rules do not prohibit *all* gifts or items of value from service providers to applicants, only those that may influence procurement activities or decisions.

In fact, USAC has an entire page titled "free services advisory" on its website in which it explains that donations of services are allowed.[37] Specifically, USAC notes that, in accordance with the Commission's rules, the donation of products and services are allowed as long as (1) the donation is not provided as a sales inducement; or (2) if the donation is tied to a bid for services, the value of the donated products is subtracted from the funding request.[38]

The free services that Knology provided to the District do not fall into the former category: they were not intended to, and did not, influence any procurement decisions. They were intended simply to allow the District's school board members and managers to perform their duties more effectively. Knology was either the lowest-priced or only bidder in every year that it won the District's business, so no gift could possibly have improved its standing as a bidder. As the District's consultant, Mr. Holt, stated in his sworn affidavit, he conducted the competitive bidding process and made recommendations to the District.[39] Each time, he used price of the E-rate eligible services to recommend the lowest-priced bidder.[40] The complimentary accounts did not figure into his analysis. Further, the donation of a few lines of residential services could not have any effect on the amount of demand for Knology's services for the schools. Accordingly, the free services that Knology provided were allowed under the gift rules. The Commission should therefore reverse USAC's decision.

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[37] http://www.usac.org/sl/applicants/step01/free-services-advisory.aspx.

[38] *Id.*

[39] Affidavit of Edward Holt.

[40] *Id.*

B. If the Commission Concludes That the District's Acceptance of Free Services Was "Tied to a Bid for Services," Recovery Must Be Governed by the Cost-Allocation Rule

As we have explained, Knology's provision of free Internet service to a handful of school board members and managers did not influence the District's procurement decisions and thus did not violate the gift rules. If the Commission nonetheless concludes that the District's acceptance of free services from Knology was somehow not allowed under the Commission's rules, it should direct USAC to seek recovery as a violation of the cost-allocation rules, rather than the gift rules.

As an initial matter, however, it is important to note that the District's acceptance of free residential services from Knology did not violate the cost-allocation rules either. During all of the years for which USAC is seeking recovery from the District and Knology, the Commission's E-rate cost-allocation rules allowed certain free services to be provided without cost-allocation. Generally speaking, the Commission's rules require applicants to allocate the costs between eligible and ineligible components of a service and omit the ineligible from their applications.[41] Under a 2010 Bureau order, however, providers were allowed to bundle "free" services with services eligible for E-rate funding, even if the free services were themselves ineligible, as long as the free services were "available to some other class of subscribers or segment of the public."[42] Knology's provision of free Internet connections to the residences of the District's school board members and managers satisfied these requirements because Knology provided similar services for other, similarly situated business customers.[43] It was therefore permissible

[41] *See* 47 C.F.R. § 54.504(e)(1).

[42] *See 2010 Clarification Order*, 25 FCC Rcd at 17328, ¶ 11.

[43] *See* Exhibit J at Attachment B, pg. 2 (rest of appeal omitted) ("Provision of complimentary services are and were a normal pricing and promotion strategy of Knology for commercial customers who meet or met certain volume or

for Knology to include these free services in its contract with the District, even though the services were not eligible for E-rate support.

In 2014, the Bureau reversed its position on the bundling of free, ineligible services with eligible services under the cost allocation rules.[44] Beginning in funding year 2015, the Bureau concluded, E-rate applicants would be required to deduct the value of ineligible services bundled with eligible services unless those ineligible components qualified as "ancillary" to the eligible services under the Commission's rules.[45] However, the District amended its contract with Knology and stopped receiving any of the free services prior to funding year 2015, and therefore no cost-allocation for that year should be necessary.[46]

In short, the free services at issue were allowed under both the gift rules and the cost-allocation rules. But if the Commission nonetheless concludes that an error occurred, the remedy should be governed by the cost-allocation rules. The Commission has stated that in the case of a competitive bidding violation, USAC should recover all of the funding disbursed.[47] In contrast, for a cost-allocation violation, USAC should only recover the specific amount of funding that should not have been disbursed for the ineligible services.[48] If the Commission were to find that the free services Knology provided constituted an improper gift, that finding would require the District to repay every penny of E-rate funding that it has received for the past five funding

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term commitments, and the values for the services provided to [the Applicant] were comparatively equivalent to those given to other commercial customers.").

[44] *Schools and Libraries Universal Service Support Mechanism*, *A National Broadband Plan for Our Future*, CC Docket No. 02-6, GN Docket No. 09-51, Order, 29 FCC Rcd 5457, 5458, ¶ 3 (Wireline Comp. Bur. 2014) (*2014 Cost Allocation Order*).

[45] *Id.* ¶ 3.

[46] *See* Exhibit I, USAC Administrator's Decision on Appeal.

[47] *Fifth Report and Order*, 19 FCC Rcd 15808, ¶ 21.

[48] *Fifth Report and Order*, 19 FCC Rcd 15808, ¶ 20.

years, which totals more than $500,000. This outcome would be manifestly unfair to the District's students, given that any error committed by the District applied to, at most, a few thousand dollars' worth of services. In light of USAC's failure to establish that the District violated any rules at all, the Commission should, at most, require the District to repay the value of the free, ineligible services that it would have been required to allocate under the Bureau's *current* reading of the cost allocation rules.

III. IN THE ALTERNATIVE, A WAIVER OF THE COMMISSION'S RULES IS IN THE PUBLIC INTEREST

As we have explained, the appropriate remedy in the instant appeal is, at most, for the District to pay back the amount it received from the program for the ineligible residential services. If, however, the Commission concludes that the District and Knology violated the gift rule rather than the cost-allocation rule,[49] the District respectfully requests in the alternative that the Commission waive section 54.503(a) and/or (d) to the extent that the Commission finds it necessary to grant the requested relief.

Any of the Commission's rules may be waived if good cause is shown.[50] The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.[51] In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[52]

As discussed above, the District asserts that no violation of the Commission's rules occurred and that, at most, it should be required to allocate out the ineligible free services

[49] 47 C.F.R. § 503(e)(1).

[50] 47 C.F.R. § 1.3.

[51] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (Northeast Cellular).

[52] *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); Northeast Cellular, 897 F.2d at 1166.

Knology provided and pay back any associated funding. To the extent that the Commission concludes that a violation of the gift rule occurred, however, the District respectfully argues that a waiver of that rule would be in the public interest and would constitute a more effective implementation of overall E-rate policy.

The purpose of the gift rule is to "prohibit[] gifts that might have undue or improper influence on a procurement decision."[53] The Commission has routinely waived competitive bidding rules when the applicant has selected the lowest-cost bidder.[54] As we have explained, Knology was the lowest-cost bidder every time it won the District's business. The free services that Knology provided were not intended to have – and did not have – any influence whatsoever on any procurement decision.[55] A finding by the Commission that the handful of complimentary accounts constituted an improper gift would require the District to repay more than $500,000 and lose another nearly $340,000 in funding. This disproportionately punitive outcome would cause substantial harm to students in Lawrence and would not serve the purposes of the gift rule or the E-rate program in general. Finally, the District itself acted in good faith when it worked to remove the handful of residential accounts, to be absolutely sure that it was in compliance with the Commission's rules.[56] Accordingly, the District urges the Commission to waive the gift rule to the extent necessary to avoid such a harmful outcome.

[53] *Sixth Report and Order*, 25 FCC Rcd 18762, ¶ 89.

[54] *See, e.g., Request for Review of Decisions of the Universal Service Administrator by Allendale County School District et al.; Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 26 FCC Rcd 6109 (Wireline Comp. Bur. 2011) (*Allendale Order*) (finding that a waiver of the Commission's competitive bidding rules was in the public interest where the petitioners selected the least expensive responsive service offering).

[55] *See* Affidavit of Edward Holt.

[56] *See* Affidavit of Jerri Kemble. As noted above, the District's receipt of these residential accounts was consistent with Knology's provision of service to its other business customers. However, the District wanted to err on the side of compliance with program rules. *Id.*

IV. CONCLUSION

For the foregoing reasons, the District respectfully requests that the Commission grant this appeal. If the Commission finds that the provision of the residential accounts constituted ineligible services, the District requests that the Commission find that the services were properly bundled with eligible services, as free services provided to a class of subscribers, for funding years 2011 through 2014. Alternatively, at most, the District simply failed to cost-allocate the ineligible services, and the Commission should instruct USAC that the repayment to the fund should be limited to the amount that was not cost-allocated for the residential services. Finally, if the Commission believes that the services were the type of "gift" not allowed under Commission rules, the District respectfully requests that the Commission waive its rules, consistent with its precedent, especially given that the error had no effect on the competitive bidding process and given that the District selected the lowest-cost bidder.

Respectfully submitted,

Lawrence Unified School District #497

Jerri Kemble
Jerri Kemble
Assistant Superintendent, Innovation and Technology
Lawrence Public Schools USD #497
110 McDonald Drive
Lawrence, Kansas 66044
(785) 832-5000

/s/ Eddie Holt
Eddie Holt
Executive Manager
eRate Solutions, L.L.C.
P.O. BOX 1426
Lawrence, Kansas 66044

December 14, 2016

CERTIFICATE OF SERVICE

This is to certify that on this 14th day of December, a true and correct copy of the foregoing Request for Review was sent via email to:

SLD, Universal Service Administrative Company, Appeals@sl.universalservice.org.

/s/ Gina Spade